

Message Text

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11

ACTION EB-06

INFO OCT-01 ARA-06 EUR-08 EA-06 IO-04 ISO-00 L-01 FRB-01

OMB-01 TAR-01 SP-02 SWF-01 AGR-05 AID-05 CIAE-00

COME-00 INR-05 LAB-01 NSAE-00 OIC-02 RSC-01 SIL-01

STR-01 TRSE-00 CIEP-01 CEA-01 PA-01 PRS-01 USIA-06

DODE-00 DOTE-00 FMC-01 CG-00 COA-01 DLOS-03 /074 W

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R 241832Z OCT 74

FM USMISSION EC BRUSSELS

TO SECSTATE WASHDC 7684

INFO AMEMBASSY BONN

AMEMBASSY BRUSSELS

AMEMBASSY COPENHAGEN

AMEMBASSY DUBLIN

AMEMBASSY LONDON

AMEMBASSY LUXEMBOURG

AMEMBASSY PARIS

AMEMBASSY ROME

AMEMBASSY THE HAGUE

USMISSION GENEVA

USMISSION OECD PARIS

AMCONSUL HAMBURG

AMEMBASSY BERN

AMEMBASSY CANBERRA

AMEMBASSY HELSINKI

AMEMBASSY MADRID

AMEMBASSY OSLO

AMEMBASSY OTTAWA

AMEMBASSY PANAMA

AMEMBASSY RIO DE JANEIRO

AMEMBASSY STOCKHOLM

AMEMBASSY TOKYO

AMEMBASSY WELLINGTON

AMEMBASSY VIENNA

AMEMBASSY MOSCOW

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UNCLAS EC BRUSSELS 8320

E.O. 11652: N/A

TAGS: ETRN, UNCTAD, EEC

SUBJECT: UN CODE OF CONDUCT FOR LINER CONFERENCE

REF: A) EC BRUSSELS 5431

B) EC BRUSSELS 4933

1. EC COMMISSION OFFICIALS HAVE CONFIRMED PRESS REPORTS THAT THE COMMISSION HAS SENT LETTERS TO THE MEMBER STATES NOTIFYING THEM THAT THE COMMISSION CONSIDERS CERTAIN PARTS OF THE UN LINER CODE INCOMPATIBLE WITH THE TREATY OF ROME. (EARLIER THE COMMISSION HAD INDICATED THE POSSIBILITY OF INCOMPATIBILITY -- SEE REFTELS. WE UNDERSTAND THAT THE LETTER WARNED THE MEMBER STATES THAT RATIFICATION OR ADHESION TO THE UN CONVENTION ON THE CODE COULD PLACE THEM IN VIOLATION OF THE TREATY. THE PRESS REPORTS THAT THE COMMISSION DOES NOT OPPOSE IN PRINCIPLE A CODE OF CONDUCT FOR LINER CONFERENCES BUT THAT CHANGES MUST BE MADE IN THE CODE TO RECONCILE THE INTERESTS OF THE MEMBER STATES WITH ARTICLES OF THE ROME TREATY.

2. THE PRESS QUOTES COMMISSION EXPERTS AS CITING THE FOLLOWING AREAS OF INCOMPATIBILITY: A) DISCRIMINATION-- THE CODE'S FORMULA RESERVING MOST TRAFFIC TO NATIONAL SHIPPING LINES OF EXPORTING AND IMPORTING COUNTRIES IS INCOMPATIBLE WITH THE NON- DISCRIMINATION RULE OF ROME TREATY ART. 7; B) RIGHT OF ESTABLISHMENT -- THE NOTION OF "NATIONAL COMPANIES" IN THE CODE IS INCOMPATIBLE WITH THE RIGHT OF ESTABLISHMENT GUARANTEED BY ARTICLE 52 OF THE ROME TREATY; C) COMPETITION POLICY -- THE DIVISION OF TRAFFIC AND PRICE FIXING BY LINER CONFERENCES THEMSELVES COULD EFFECT INTRA-COMMUNITY COMMERCE AND THUS BE IN VIOLATION OF ART. 85.1 OF THE TREATY (AGREEMENTS IN RESTRAINT OF TRADE). THE PRIVILEGED POSITION ACCORDED TO MEMBERS OF ARRANGEMENT PROVIDED FOR UNDER THE LINER CODE COULD LEAD TO A DOMINANT POSITION IN THE MARKET IN VIOLATION OF ART. 86. PREFERENTIAL TREATMENT ACCORDED TO STATE OWNED SHIPPING COMPANIES COULD BE INCOMPATIBLE WITH ART. 90 OF THE ROME TREATY;

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D) COMMERCIAL POLICY -- SINCE 90 PERCENT OF THE EC'S FOREIGN TRADE IS CONDUCTED BY SEA, IT IS UP TO THE EC AND NOT THE MEMBER STATES TO CONCLUDE INTERNATIONAL AGREEMENTS AS PROVIDED FOR IN ROME TREATY ART. 113.

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Disposition Authority: n/a
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Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
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